

The Gazette of India

EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 25] NEW DELHI, THURSDAY, AUGUST 4, 1960/SRAVANA 13, 1882

LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th August, 1960:—

BILL No. 38 OF 1960

A Bill further to amend the Banking Companies Act, 1949.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. This Act may be called the Banking Companies (Amendment) Act, 1960. Short title.

10 of 1949. 5 2. After section 34 of the Banking Companies Act, 1949, the following section shall be inserted, namely:— Insertion of new section 34A.

14 of 1947. 10 "34A. (1) Notwithstanding anything contained in section 11 of the Industrial Disputes Act, 1947, or any other law for the time being in force, no banking company shall, in any proceeding under the said Act or in any appeal or other proceeding arising therefrom or connected therewith, be compelled by any authority before which such proceeding is pending to produce, or give inspection of, any of its books of account or other document or furnish or disclose any statement or information, when the banking company claims that such document, statement or information is of a confidential nature and that the production or inspection of such document or the furnishing or disclosure of such statement or information would involve disclosure of information relating to— Production of documents of confidential nature.

20 (a) any reserves not shown as such in its published balance sheet; or

(b) any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions.

(2) If, in any such proceeding in relation to any banking company other than the Reserve Bank of India, any question arises as to whether any amount out of the reserves or provisions referred to in sub-section (1) should be taken into account by the authority before which such proceeding is pending, the authority may, if it so thinks fit, refer the question to the Reserve Bank and the Reserve Bank shall, after taking into account principles of sound banking and all relevant circumstances concerning the banking company, furnish to the authority a certificate stating that the authority shall not take into account any amount as such reserves and provisions of the banking company or may take them into account only to the extent of the amount specified by it in the certificate, and the certificate of the Reserve Bank on such question shall be final and shall not be called in question in any such proceeding.

(3) For the purposes of this section, "banking company" shall have the meaning assigned to it in the Industrial Disputes Act, 1947.

STATEMENT OF OBJECTS AND REASONS

The interpretation of the provisions of the Banking Companies Act, 1949, relating to certain special reserves maintained by banks has not been quite clear and the question of clarifying the intention has been under consideration for some time.

2. As credit institutions dealing primarily with depositors' monies, banks have to make certain special provisions against emergencies or unforeseen contingencies as a matter of financial prudence. The legal position in the United Kingdom and certain other countries is that banks have been specifically exempted by law from disclosing information relating to these provisions. In India the form of the balance sheet and the profit and loss account prescribed for banks by the Banking Companies Act ensures that such provisions need not be disclosed. But a doubt has been felt whether notwithstanding this, any Tribunal or other authority could compel banking companies to disclose information relating to these reserves and provisions. As such reserves and provisions are for emergencies and unforeseen contingencies, it is not in the public interest or in the interests of the banking system of the country to disclose these particulars. It is accordingly proposed to insert a new section in the Banking Companies Act to make it clear that information, which according to the law is not required to be published in the balance sheet or profit and loss accounts of a banking company, need not be disclosed to the various authorities under the Industrial Disputes Act. Although the secrecy of the special or inner reserves is thus proposed to be maintained, the various authorities constituted under the Industrial Disputes Act are being specifically empowered to call for reports from the Reserve Bank of India, as an expert authority, regarding the amount of such reserves which may be taken into account for the purposes of the proceedings under that Act.

NEW DELHI:

The 30th July, 1960.

MORARJI DESAI.

M. N. KAUL,

Secretary.

